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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

GREGORY McKINNEY,

Petitioner,

v.

THE SUPERIOR COURT OF
LOS ANGELES COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

No. B305295

(Los Angeles County
Super. Ct. No. YA036162)

ORIGINAL PROCEEDING; petition for writ of mandate.

William C. Ryan, Judge. Writ granted.

Gregory McKinney, self-represented litigant, for Petitioner.

No appearance for Respondent.

Xavier Becerra, Attorney General, Lance E. Winters, Chief Assistant Attorney General, Susan Sullivan Pithey, Senior Assistant Attorney General, Paul M. Roadarmel, Jr., Supervising Deputy Attorney General, for Real Party in Interest.

Following a conviction for attempted second degree robbery in 1998, petitioner Gregory McKinney was sentenced to 25 years to life in prison under the Three Strikes law. On February 8, 2013, he filed a petition for recall of sentence pursuant to Penal Code section 1170.126¹ (Proposition 36). The respondent court issued an order to show cause and appointed counsel to represent petitioner on March 7, 2013. The People filed an opposition on November 2013. On or about July 6, 2017, petitioner filed a second petition for recall of sentence, this time pursuant to section 1170.18 (Proposition 47), and again, the respondent court issued an order to show cause.

Seven years after petitioner filed his section 1170.126 petition and four years after he filed his section 1170.18 petition, both petitions remain undecided. On April 9, 2020, petitioner filed a petition for writ of mandate in pro. per., seeking an order directing the respondent court to rule on his petitions for recall of sentence. We issued a notice pursuant to *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171 (*Palma*) on April 17, 2020, indicating we were considering issuance of a peremptory writ in the first instance requiring the respondent court to rule on the petition.

¹ All further statutory references are to the Penal Code.

According to the parties' status reports, filed June 2020, petitioner's expert witness is preparing a report regarding petitioner's suitability for release and petitioner's Proposition 36 and 47 petitions are set for hearing before the respondent court on August 3, 2020.

We recognize recent delays have been inevitable in light of the COVID-19 pandemic and restrictions on inmates' ability to confer with counsel and expert witnesses. Nonetheless, inmates are entitled to prompt consideration of their legal claims, and seven years is an unreasonable amount of time for any inmate to wait for a decision on a petition for recall of sentence.

DISPOSITION

Accordingly, respondent court is directed to commence its hearing on petitioner's Proposition 36 and 47 petitions by no later than August 10, 2020. Any ruling must be issued by no later than October 8, 2020. This decision shall become final in this court fifteen days after the date of this opinion. (Cal. Rules of Court, rule 8.490(b)(2)(A).)

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KIM, J.

We concur:

BAKER, Acting P.J.

MOOR, J.